



May 15, 2007 CPC  
June 19, 2007 CPC  
July 25, 2007 BS

STAFF'S  
REQUEST ANALYSIS  
AND  
RECOMMENDATION

07SN0308  
(AMENDED)

Emerson Companies LLC

Bermuda Magisterial District  
North line of East Hundred Road

REQUEST: (AMENDED) Rezoning from Agricultural (A) to Community Business (C-3) with Conditional Use Planned Development to permit exceptions to Ordinance requirements.

PROPOSED LAND USE:

Commercial uses, except as restricted by Proffered Condition 3, are planned. An exception to allow parking in front of buildings is requested.

PLANNING COMMISSION RECOMMENDATION

RECOMMEND APPROVAL AND ACCEPTANCE OF THE PROFFERED CONDITIONS ON PAGES 2 AND 3.

STAFF RECOMMENDATION

Recommend denial for the following reasons:

- A. The proposed zoning and land uses do not conform to the Consolidated Eastern Area Plan which suggests the property is appropriate for a mix of office and residential uses of varying densities. While the Plan also suggests neighborhood-scale retail and service uses would be appropriate provided any potential adverse impacts on nearby residential uses are mitigated through transitional uses, buffers and/or design, the application fails to offer sufficient measures.
- B. The application fails to address transportation concerns, as discussed herein.

- C. The requested parking exception is inconsistent with recently adopted design criteria for this portion of the Route 10 corridor.

(NOTE: THE ONLY CONDITION THAT MAY BE IMPOSED IS A BUFFER CONDITION. THE PROPERTY OWNER(S) MAY PROFFER OTHER CONDITIONS. THE CONDITIONS NOTED WITH “STAFF/CPC” WERE AGREED UPON BY BOTH STAFF AND THE COMMISSION. CONDITIONS WITH ONLY A “STAFF” ARE RECOMMENDED SOLELY BY STAFF. CONDITIONS WITH ONLY A “CPC” ARE ADDITIONAL CONDITIONS RECOMMENDED BY THE PLANNING COMMISSION.)

### PROFFERED CONDITIONS

The Contract Purchaser-Applicant in this zoning case, pursuant to Section 15.2-2298 of the Code of Virginia (1950 as amended) and the Zoning Ordinance of Chesterfield County, for itself and its successors or assigns, proffers that the development of the properties known as Chesterfield County Tax IDs 817-652-5138, 817-652-8321, and 817-652-6725 from A to C-3 will be developed as set forth below; however, in the event the request is denied or approved with conditions not agreed to by the Applicant, these proffers and conditions shall be immediately null and void and of no further force or effect.

- (CPC) 1. Timbering. Except for the timbering approved by the Virginia State Department of Forestry for the purpose of removing dead or diseased trees, there shall be no timbering on the Property until a land disturbance permit has been obtained from the Environmental Engineering Department and the approved devices have been installed. (EE)

- (CPC) 2. Transportation.

#### Dedications/Recordation.

Prior to any site plan approval or within 60 days from a written request by the Transportation Department, whichever occurs first, one-hundred (100) feet of right of way measured from the centerline of that part of Route 10 immediately adjacent to the property shall be dedicated free and unrestricted, to and for the benefit of Chesterfield County.

#### Access.

Direct vehicular access from the property to Route 10 shall be limited to two (2) entrances/exits. The exact location of these accesses shall be approved by the Transportation Department. Prior to any site plan approval, access easements, acceptable to the Transportation Department, shall be recorded across the property to provide shared use of these accesses with adjacent properties. (T)

(CPC) 3. Use limitations.

The following C-3 uses shall not be permitted on the property:

- a) indoor flea markets
- b) park and ride lots;
- c) taxidermies;
- d) cocktail lounges and nightclubs;
- e) feed, seed and ice sales;
- f) motor vehicle washes;
- g) hospitals;
- h) theaters, except drive-in theaters;
- i) veterinary hospitals and/or commercial kennels. (P)

(CPC) 4. Utilities. The public wastewater system shall be used. (U)

(CPC) 5. Buffers required by the zoning Ordinance may not be waived and/or modified through site plan review. (P)

(CPC) 6. Storm Water Retention. The developer will retain the two (2), ten (10) and one hundred (100) year post development runoff and release at the two (2), ten (10) and one hundred (100) year predevelopment rate. (EE)

(CPC) 7. Textual Statement. In conjunction with the approval of this request, the Textual Statement dated May 24, 2007, shall be approved. (P)

GENERAL INFORMATION

Location:

North line of East Hundred Road, west of Kingston Avenue. Tax IDs 817-652-5138, 6725 and 8321.

Existing Zoning:

A

Size:

4.4 acres

Existing Land Use:

Single-family residential

Adjacent Zoning and Land Use:

North - R-7; Single-family residential  
South - A; Single-family residential  
East - A with Conditional Use to permit B-1 uses plus plumbing and heating sales and service; Commercial  
West - A; Single-family residential

UTILITIES

Public Water System:

There is a twelve (12) inch water line extending along the north side of East Hundred Road, adjacent to this site. Use of the public water system is required by County Code.

Public Wastewater System:

The request site is within the Johnson Creek drainage basin. There is an eighteen (18) inch wastewater trunk line extending along Johnson Creek approximately 1,300 feet south of this site. Use of the public wastewater system is intended. (Proffered Condition 4)

ENVIRONMENTAL

Drainage and Erosion:

The property drains to the south to Route 10 and then under Route 10 to Johnson's Creek. There are no existing or anticipated on- or off-site erosion problems. Drainage problems north of Route 10 consist of inadequate pipes under Route 10 and their inability to handle increased run-off. Therefore, this developer, like others north of Route 10, has agreed to retain the 2, 10 and 100 post development and release at a 2, 10 and 100 pre-development. (Proffered Condition 6)

A portion of the zoning request is wooded and, as such, should not be timbered without obtaining a land disturbance permit from the Department of Environmental Engineering (Proffered Condition 1). This will ensure adequate erosion control measures are in place prior to any land disturbance.

PUBLIC FACILITIES

Fire Service:

The Rivers Bend Fire Station, Company 18, currently provides fire protection and emergency medical service (EMS) to this area. This request will have a minimal impact on fire and EMS.

### Transportation:

The property (4.4 acres) is currently zoned Agricultural (A), and the applicant is requesting rezoning to Community Business (C-3). This request will not limit development to a specific land use; therefore, it is difficult to anticipate traffic generation. Based on shopping center trip rates, development could generate approximately 3,990 average daily trips. These vehicles will be distributed along East Hundred Road (Route 10), which had a 2006 traffic count of 38,977 vehicles per day. The capacity of the six-lane section of Route 10 between Interstate 295 and Old Bermuda Hundred Road/Meadowville Road is acceptable (Level of Service B) for the volume of traffic it currently carries. No public road improvements in this part of the county are currently included in the Six-Year Improvement Plan.

The Thoroughfare Plan identifies Route 10 as a major arterial with a recommended right-of-way width of 120 to 200 feet. The applicant has proffered to dedicate one hundred (100) feet of right-of-way, measured from the centerline of Route 10, in accordance with that Plan. (Proffered Condition 2)

Development must adhere to the Development Standards Manual in the Zoning Ordinance, relative to access and internal circulation (Division 5). Vehicular access to major arterials, such as Route 10, should be controlled. The property has approximately 550 feet of frontage along Route 10, and the western property line is located approximately 250 feet from the Bermuda Orchard Lane/Route 10 signalized intersection. Because of its limited road frontage and its proximity to that signalized intersection, the property should be limited to one (1) vehicular access to Route 10, generally located midway of the property frontage. The applicant has proffered that direct vehicular access from the property to Route 10 will be limited to two (2) entrances/exits (Proffered Condition 2). Proffered Condition 2 regarding access would also require an access easement to be recorded across the property to provide shared use of these accesses with adjacent properties. As previously stated, Staff supports only one (1) access to Route 10.

The traffic impact of this development must be addressed. Customary road improvements should be provided, such as construction of additional pavement along Route 10 to provide a fourth lane of pavement and a sidewalk for the property frontage plus construction of a separate right turn lane to serve the Route 10 access. These road improvements should be provided with initial development of the property.

The applicant is unwilling to limit access to Route 10 to one (1) entrance/exit or to proffer conditions that require construction of the necessary road improvements. Without these commitments, the Transportation Department cannot support this request.

### LAND USE

#### Comprehensive Plan:

Lies within the boundaries of the Consolidated Eastern Area Plan, which suggests the property is appropriate for a mix of office and residential uses of varying densities.

Further, the Plan suggests neighborhood-scale retail and service uses would be appropriate if potential adverse impacts from these uses on nearby residents, such as noise, light, trash and odor are mitigated by transitional uses such as offices or by additional buffering or other design features.

#### Area Development Trends:

The area is characterized by single-family residential uses on acreage parcels to the south and west and within Random Woods Subdivision to the north. A commercial use is located on adjacent property to the east. The Plan suggests development along this portion of Route 10 be limited to primarily office and residential uses with commercial uses concentrated at nodes located at intersecting arterials and collectors. The intent of the Plan is to attempt to minimize strip commercial development along the corridor.

The Plan does, however, make provisions for some limited commercial uses along the corridor under certain circumstances.

#### Uses:

Proffered Condition 3 eliminates some uses that would be permissible on the property. The intent of Proffered Condition 3 is to preclude the more objectionable uses from the Community Business (C-3) District. These restrictions do not provide the land use transition suggested by the Plan nor do they minimize the intensity of uses that may potentially locate proximate to the neighborhood.

#### Development Standards:

Currently, the property lies within an Emerging Growth District Area and Route 10 Corridor East. The Zoning Ordinance specifically addresses access, landscaping, setbacks, parking, signs, buffers, utilities and screening for developments within these areas. Further, the Route 10 standards address additional yard requirements, architecture and internal circulation.

#### Setbacks:

The applicant has requested an exception to required setbacks for parking and drives. The Ordinance requires a minimum forty (40) foot setback from the ultimate right of way of Route 10 for parking and drives (not including driveways for drive-through facilities). In addition, such parking and drives are not to be located any closer to Route 10 than the face of any building along the road. The applicant wants to be allowed parking and drives closer to Route 10 than the building(s) and provides that such parking and drives would be set back a minimum of fifty (50) feet from the ultimate right of way. (Textual Statement)

A goal of the additional setback requirements along this portion of the Route 10 corridor is to improve the overall appearance of development when viewed from the road. Given

the commercial uses proposed are more intense than the uses suggested by the Plan, approval of the exception to allow parking in front of the building(s) would not be appropriate. Further, these standards were recently adopted in the Zoning Ordinance. A deviation from the required setbacks could set a precedent for further such exceptions along this corridor.

#### Buffers:

Random Woods Subdivision lies to the north of the request property. The zoning Ordinance will require a seventy-five (75) foot buffer adjacent to this residential development. The applicant has offered that this buffer will be waived or modified through site plan review. (Proffered Condition 5)

Another component of addressing the recommendations of the Plan regarding the appropriateness of commercial uses in this area would be an offer to increase this minimum buffer requirement.

#### Architectural Treatment:

The Route 10 East District addresses architectural treatment, requiring all building exteriors visible to the public or adjacent properties to be constructed of architectural materials consistent in quality, appearance and detail. In addition, the treatment must be compatible with best architectural examples of buildings located within the same project, within the same block or directly across any road.

### CONCLUSION

The proposed zoning and land uses do not conform to the Consolidated Eastern Area Plan which suggests the property is appropriate for a mix of office and residential uses of varying densities. While the Plan also suggests neighborhood-scale retail and service uses would be appropriate under certain circumstances such as provision of transitional uses, buffers and/or design to mitigate any potential adverse impacts on nearby residential uses, this application fails to sufficiently address these measures. In addition, the transportation concerns, as discussed herein, have not been addressed. Approval of the requested setback exception would not be appropriate, since the requested zoning and uses are contrary to the Plan and proposes more intense uses along this corridor.

Given these considerations, denial of this request is recommended.

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### CASE HISTORY

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Planning Commission Meeting (5/15/07):

At the request of the applicant, the Commission deferred this case to June 19, 2007.

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Staff (5/16/07):

The applicant was advised in writing that any significant, new or revised information should be submitted no later than May 21, 2007, for consideration at the Commission's June 19, 2007, public hearing. Also, the applicant was advised that a \$230.00 deferral fee must be paid prior to the Commission's public hearing.

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Applicant (5/17/07):

The application was amended to include a request for setback exceptions for parking and drives, and a Textual Statement.

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Applicant (5/25/07):

An amended Textual Statement was submitted.

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Applicant (5/30/07):

An additional proffered condition was submitted.

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Applicant (6/8/07):

The deferral fee was paid.

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Planning Commission Meeting (6/19/07):

The applicant accepted the Commission's recommendation. There was no opposition present.

On motion of Mr. Wilson, seconded by Mr. Litton, the Commission recommended approval and acceptance of the proffered conditions on pages 2 and 3.

AYES: Messrs. Gecker, Gulley, Bass, Litton and Wilson.

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The Board of Supervisors, on Wednesday, July 25, 2007, beginning at 6:30 p.m., will take under consideration this request.



## **TEXTUAL STATEMENT**

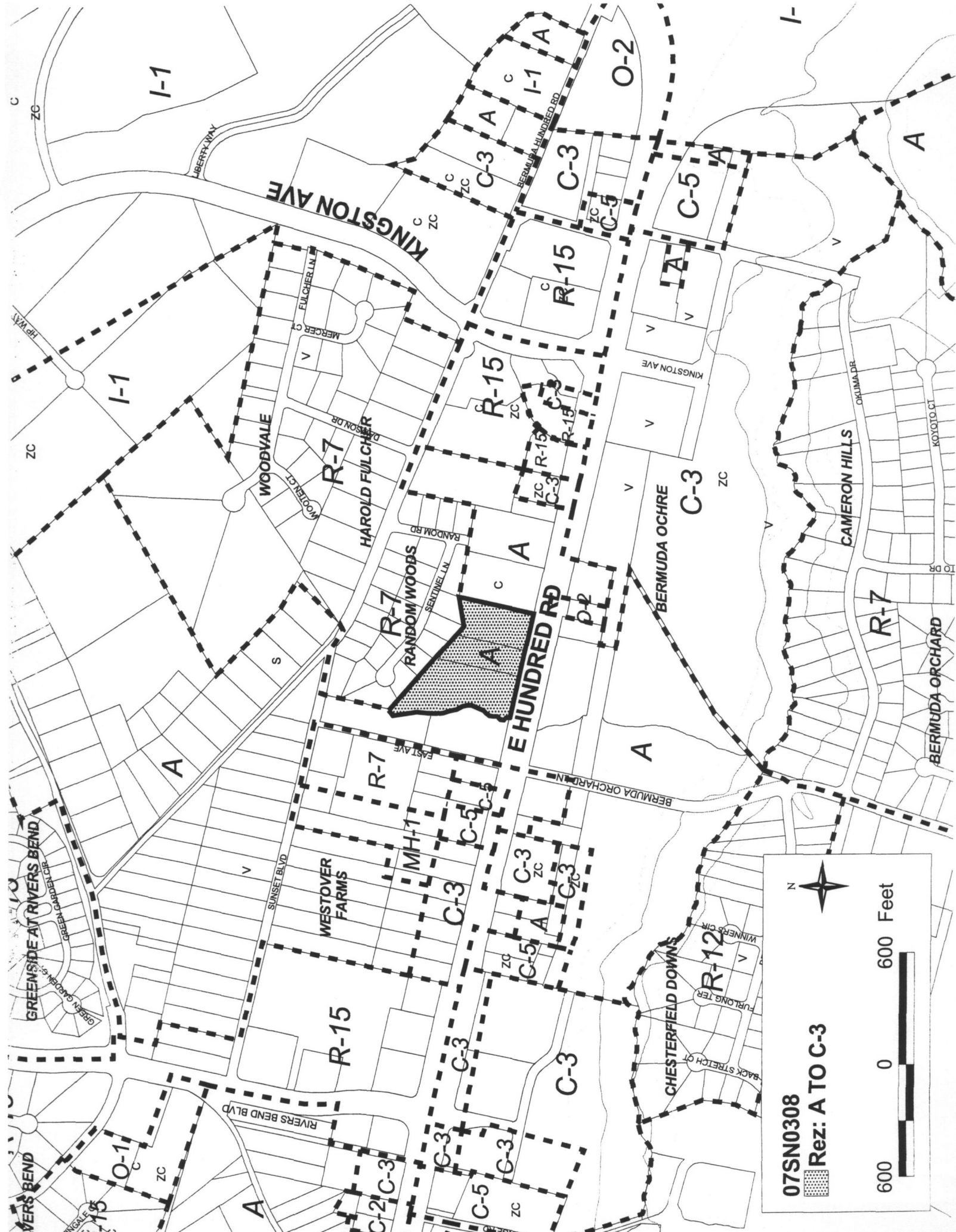
Case No 07SN0308

May 24, 2007

This is a request to rezone the Property under consideration to C-3 with a Conditional Use Planned Development (CUPD) that will permit exceptions to Section 19-587.1 regarding setbacks along Route 10. The Applicant does not want to meet the requirements of Section 19-587.1, but is requesting to be subject to the following:

*Setbacks along Route 10:* The minimum setback area for buildings shall be 30 feet from the ultimate right-of-way with the installation of perimeter landscaping J. The minimum setback along Route 10 for drives and parking shall be 40 feet, provided however, that parking or associated driveways (not including driveways necessary for drive-through facilities) shall not be located any closer to Route 10 than the face of any building along the road, unless such drives and parking are setback a minimum of 50 feet from the ultimate right-of-way. The minimum setback along Route 10 for driveways necessary for drive-through facilities shall be 30 feet from the ultimate right-of-way.

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